

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**THOMAS BRANUM**

**v.**

**UNITED STATES OF AMERICA**

)  
)  
)  
)  
)  
)  
)

**NO. 3:16-CV-1374  
JUDGE NIXON**

**PETITIONER’S MOTION TO REOPEN**

In accordance with this Court’s order of September 27, 2016, petitioner Thomas Branum moves this Court to reopen this case so he can proceed with the amended motion that he is filing contemporaneously.

In 2013, Branum was convicted of several crimes, including one count of violating § 924(c) by discharging a firearm in furtherance of the crime of violence of conspiring to commit a Hobbs Act robbery or extortion. In 2016, Branum filed a petition in this case seeking relief under the theory that, in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), his § 924(c) conviction was unconstitutional. But binding precedent of the Sixth Circuit, *United States v. Taylor*, 814 F.3d 340 (6th Cir. 2016), held that the rule in *Johnson* does not apply to § 924(c) convictions, leaving § 924(c)(3)(B)’s definition of “crime of violence” constitutional. Thus, this Court dismissed Branum’s petition but granted Branum “leave to amend . . . if the Sixth Circuit or the Supreme Court finds § 924(c)(3)(B) to be unconstitutional” (Order, R.6, PageID# 26.)

The Supreme Court has now abrogated *Taylor*, has found that the rule in *Johnson* applies to § 924(c), and has thereby found the residual clause of § 924(c)(3)(B) to be unconstitutional. *United States v. Davis*, 139 S.Ct. 2319 (2019). Accordingly, Branum moves to reopen this case, and he is contemporaneously filing an amended motion.

Respectfully submitted,

s/ Michael C. Holley  
MICHAEL C. HOLLEY  
Assistant Federal Public Defender  
810 Broadway, Suite 200  
Nashville, Tennessee 37203  
615-736-5047

Attorney for Thomas Branum

**CERTIFICATE OF SERVICE**

I hereby certify that on this the March 13, 2020, I electronically filed the foregoing document in accordance with 28 U.S.C. § 2255 with the U.S. District Court Clerk by using the CM/ECF system, which will send a Notice of Electronic Filing to the following: Sunny A.M. Koshy, Assistant United States Attorney, 110 Ninth Avenue South, Suite A-961, Nashville, Tennessee 37203.

s/ Michael C. Holley  
MICHAEL C. HOLLEY